

REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1, 3, 5, 7-20, and 22-38 were previously pending in this application. Claims 3 and 18 are cancelled herein without prejudice or disclaimer to re-filing in a continuation or divisional application. Accordingly, claims 1, 5, 7-17, 19, 20, and 22-38 are now pending. Claims 14, 15, 27, and 28 have been withdrawn from consideration. Claims 1, 17, 22, 33, 35, and 37, have been amended herein.

Applicants respectfully assert that the amendments to the claims add no new matter.

Telephone Interview

Applicants wish to thank Examiner Samuel Candler for attending a telephone interview with Caleb Pollack, the undersigned, Yamima Eadan, Registration No. 64,764, and Sharone Godesh, representative for the client, on March 18, 2010. During the interview, proposed amendments to claim 1 were presented and discussed in view of Imran (US Patent No. 6,535,764) and Kilcoyne et al. (US Patent No. 6,689,056).

No agreement was reached.

Claim Objections / Allowable Subject Matter

Claims 11, 13, and 25, are objected to as being depending on a rejected base claim but would be allowable if rewritten in independent form. Applicants wish to thank the Examiner for indicating that claims 11, 13, include allowable subject matter.

Each of claims 11, 13, and 25 depends on one of claims 1 and 22, which, as discussed below, is allowable. Accordingly, claims 11, 13, and 25 are likewise allowable and the objection thereto is respectfully requested to be withdrawn.

35 U.S.C. § 102 Rejections

In the Office Action, the Examiner rejected claims 1, 3, 5, 7-9, 12, 16-20, 22-23, 26, and 29-38 under 35 U.S.C. § 102(e), as being anticipated by Imran (US Patent No. 6,535,764) and claims 1, 5, 7-10, 16-17, 19-20, 22, 24, 32, 33, and 35-38 under 35 U.S.C. § 102(e), as being anticipated by Kilcoyne et al. (US Patent No. 6,689,056). Applicants traverse these rejections in view of the remarks that follow.

Each of Applicants' amended independent claims 1 and 17 includes, *inter alia*:

a processor internal to the [device or capsule] ... to issue a signal in response to [a] sensor sensing data ..., wherein said signal issued by said internal processor within the [device or capsule] activates [an immobilizer] attached to the [device or capsule] to stop [] passive motion of the [device or capsule].

Each of Applicants' amended independent claims 22 and 33 includes, *inter alia*:

issuing a signal [] in response to [] sensed data ..., said signal issued by [an] internal processor [] within the device to activate a degradable immobilizer attached to the in-vivo device ... to stop the passive motion of the device.

Applicants' amended independent claim 35 includes, *inter alia*:

a controller internal to said housing to issue a signal in response to receiving data from [a] sensor ..., wherein said signal is issued by said internal controller within said housing to activate a degradable immobilization unit attached to said housing to stop the passive motion of the housing.

Applicants assert that neither Imran et al. nor Kilcoyne et al., alone or in combination, teaches at least these features of each of amended independent claims 1, 17, 22, 33, and 35.

Imran

Imran's device 10 does not have an *internal* processor within the device that activates the device's immobilizer. As the Examiner describes in paragraph 5 of the Office Action, Imran teaches controlling an immobilizer via an *external* processor. The only internal processor described in Imran (disposed within the device 10 housing) is controller 40 of Fig. 25 (e.g., see col. 14 lines 4-5). Imran's controller 40 controls circuitry 25 which "[produces] various types of programmable waveforms ... that may be used in stimulating the smooth muscle lining of the intestinal tract" (col. 13 lines 45-49),

controls telemetry coil 45 which delivers sensory data for monitoring the attachment site once the device is already attached, and generally controls the device components, such as, a clock and battery (e.g., see col. 14 lines 4-7). However, nowhere does Imran teach or suggest a controller internal to device 10 that triggers the immobilizer to attach the device itself to the intestinal wall. Each of Applicants' claims 1, 17, 22, 33, and 35 includes an internal controller or processor activating an immobilizer in response to sensed data.

Each of claims 1, 17, 22, 33, and 35 requires that the internal controller (which activates the immobilizer) be disposed within the *same* device, capsule, or housing, to which the immobilizer is attached. Imran's immobilizer may only be attached to device 10, but not to delivery endoscope 110. As described above, Imran's device 10 does not have an internal controller that immobilizes the device. If Imran were to have controller that immobilizes the device it would have to be located external to device 10, for example, within endoscope 110, within a different device, capsule, or housing (endoscope 110) than the device, capsule, or housing than the device to which the immobilizer is attached (device 10). Endoscope 110 cannot be equated with the capsule of claim 17 since the endoscope 110 is not a capsule, nor can endoscope 110 be equated with the immobilizable housing of claim 35 to which an immobilization unit is attached since the endoscope housing is not itself immobilized.

Each of claims 1, 17, 22, 33, and 35 requires that an immobilizer attached to a device is activated in response to data sensed by the device itself. In contrast, Imran teaches that a secondary endoscope 110 collects in-vivo sensory data (image or electrical) to find the optimal attachment site (e.g., see col. 11 lines 27-33 of Imran).

In addition, Imran et al. teaches "an endoscopic delivery system delivers the functional device through the esophagus and into the stomach where it is attached [to] the stomach wall" (Abstract of Imran). Throughout Imran, the "functional device" (10) is always guided to an attachment site by an endoscope (110) (e.g., see col. 11 lines 27-33 and Figs. 1-6, 10, 11, 13-17 of Imran). The functional device (10) never travels to the attachment site (105) by itself and never activates an immobilizer (123) by itself.

Each of claims 1, 17, 22, 33, and 35 requires that an immobilizer stop the *passive*

motion of the device or capsule or housing. The peristaltic forces acting on an endoscope guiding a device, or the guided device, will not overcome the control provided from the attached end and therefore may be considered negligible. Furthermore, the meaning of “passive traverse” is well understood in the art to distinguish the active passage of an endoscope.

Accordingly, independent claims 1, 17, 22, 33, and 35, are allowable over Imran.

Kilcoyne

Kilcoyne et al. teaches a “probe 18 is removably carried by the delivery catheter 138, and may be advanced through the working channel on an endoscope or other access device to an attachment site” (col. 12 lines 37-40 of Kilcoyne). Similar to Imran, Kilcoyne uses a separate device (delivery catheter 138) to deliver a probe or monitor 18 to an attachment site.

Also similarly to Imran, Kilcoyne’s monitor 18 does not have an *internal* processor within the device that activates the device’s immobilizer. The only internal processor described in Kilcoyne (disposed within outer shell 120) is a microprocessor 116 of Fig. 4. Kilcoyne’s microprocessor 116 “can perform one or more functions, including temporary storage or memory of data, reception of input signal from the transducer, and transformation between analog and digital signals” (col. 8 lines 29-47). However, nowhere does Kilcoyne teach or suggest an internal controller that triggers an immobilizer, as required in each of claims 1, 17, 22, 33, and 35.

As described above, each of claims 1, 17, 22, 33, and 35 requires that the internal controller (which activates the immobilizer) be disposed within the *same* device, capsule, or housing, to which the immobilizer is attached. Kilcoyne’s immobilizer may only be attached to monitor 18, but not to delivery catheter 138 (the endoscope should not be stuck within a patient). As described above, Kilcoyne’s microprocessor 116 does not immobilize monitor 18.

Furthermore, catheter 138 cannot be equated with the capsule of claim 17 since the catheter 138 is not a capsule, nor can catheter 138 be equated with the immobilizable housing of claim 35 to which an immobilization unit is attached since the catheter 138

housing is not itself immobilized.

Each of claims 1, 17, 22, 33, and 35 requires that an immobilizer attached to a device is activated in response to data sensed by or within the device itself. In contrast, Kilcoyne teaches using a separate delivery catheter 138, such as an endoscope (to collect image data) or a “blind” catheter (to collect image data such as suction pressure) to find the attachment site and activate an immobilizer (e.g., see col. 12 lines 37-46 of Kilcoyne). Kilcoyne’s monitor 18 is used to sense data once it is attached, but not to find the location to attach.

As described above in reference to Imran, each of claims 1, 17, 22, 33, and 35 requires that an immobilizer stops the *passive* motion of the device or capsule or housing, while Kilcoyne only teaches *actively* passing monitor 18 to an attachment site using a delivery catheter 138.

Accordingly, claims 1, 17, 22, 33, and 35, are allowable over Kilcoyne.

Each of claims 5, 7-13, 16, 19-20, 23-26, 29-32, 34, and 36-38 depends from one of independent claims 1, 17, 22, 33 and 35, and includes all the limitation of those claims, which as discussed are allowable over Imran and Kilcoyne. Accordingly, each of claims 5, 7-13, 16, 19-20, 23-26, 29-32, 34, and 36-38 are likewise allowable over Imran and Kilcoyne.

Claims 3 and 18 have been cancelled. Therefore the rejections thereof are moot.

Therefore, Applicants request that the Examiner withdraw the rejection of claims 1, 3, 5, 7-10, 12, 16-20, 22-24, 26, and 29-38 under 35 U.S.C. § 102.

Conclusion

In view of the foregoing amendments and remarks, Applicants assert that the pending claims are allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, or if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to contact the

APPLICANT(S): GILAD, Zvika et al.
SERIAL NO.: 10/540,890
FILED: February 23, 2006
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undersigned at the telephone number below.

No fees are believed to be due in connection with this paper. However, if any such fees are due, please charge any fees that are due to deposit account No. 50-3355.

Respectfully submitted,



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Dated: March 19, 2010

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